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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/704,028	11/01/2000	Gary G. Lenihan	060545/0456	2436

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EXAMINER
MILLER, BENA B

ART UNIT	PAPER NUMBER
3712	

DATE MAILED: 12/28/2001

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No. 09/704,028	Applicant(s) LENIHAN, GARY G.	
	Examiner Bena Miller	Art Unit 3712	

-- Th MAILING DATE of this communication appears on the cover sh et with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☒ Responsive to communication(s) filed on *01 November 2000* .

2a)☐ This action is **FINAL**. 2b)☒ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) *1-20* is/are pending in the application.

4a) Of the above claim(s) *10* is/are withdrawn from consideration.

5)☐ Claim(s) _____ is/are allowed.

6)☒ Claim(s) *1-9 and 11-20* is/are rejected.

7)☐ Claim(s) _____ is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☐ The specification is objected to by the Examiner.

10)☐ The drawing(s) filed on _____ is/are: a)☐ accepted or b)☐ objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

11)☐ The proposed drawing correction filed on _____ is: a)☐ approved b)☐ disapproved by the Examiner.

If approved, corrected drawings are required in reply to this Office action.

12)☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

13)☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a)☐ All b)☐ Some * c)☐ None of:

1.☐ Certified copies of the priority documents have been received.

2.☐ Certified copies of the priority documents have been received in Application No. _____ .

3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

14)☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).

a) ☐ The translation of the foreign language provisional application has been received.

15)☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

1) ☒ Notice of References Cited (PTO-892)
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) _____ .
4) ☐ Interview Summary (PTO-413) Paper No(s). _____ .
5) ☐ Notice of Informal Patent Application (PTO-152)
6) ☐ Other:

DETAILED ACTION

Claim Objections

Claims 7 and 8 are objected to under 37 CFR 1.75(c), as being of improper dependent form for failing to further limit the subject matter of a previous claim. Applicant is required to cancel the claim(s), or amend the claim(s) to place the claim(s) in proper dependent form, or rewrite the claim(s) in independent form.

Claim Rejections - 35 USC § 112

The following is a quotation of the first paragraph of 35 U.S.C. 112:

> The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

Claim 4 is rejected under 35 U.S.C. 112, first paragraph, as containing subject matter which was not described in the specification in such a way as to enable one skilled in the art to which it pertains, or with which it is most nearly connected, to make and/or use the invention. It is unclear from the specification on how the sound producing device and the light producing device is electrically connected to the toy kitchen.

The following is a quotation of the second paragraph of 35 U.S.C. 112:

> The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claims 4, 7-9, 13, 14 and 15 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. The claims are replete with

indefiniteness that is too numerous to point out in every instance. The following examples are provided for the applicant's use in making corrections wherever appropriate but not specifically pointed out.

Regarding claim 4, the examiner is unsure as to how is the sound producing device and lighting device is included in the accessory.

Claims 7 and 8, as set forth above, are objected to for failing to further limit the subject matter of a previous claim. Therefore, the scope of the claims can not be determined with substantial certainty. Clarification of the scope of the claims is required in response to this Office Action.

Regarding claim 9, the examiner is unsure as to what is encompassed by the phrase "window treatment".

Regarding claim 13, the examiner is unsure as to how the first position and second position defines play area.

Regarding claim 14, there is lack of antecedent basis for the "the main kitchen unit" as recited in line 2.

Regarding claim 15, the examiner is as to what structure is encompassed by the expression "configured to". The expression such as "configured to" appears to recite only function or intended use of the claimed kitchen and does not appear to add any structure to the claim.

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or describ d in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 1-3, 5, 7, 8 and 11-16 are rejected under 35 U.S.C. 102(b) as being anticipated by Mariol.

Regarding claims 1 and 2, Mariol teaches in figures 1-7 a toy kitchen comprising a main unit (fig.1) and an island (66 and 61) configured as claimed.

Regarding claims 3, 11 and 16, Mariol further teaches a countertop in figure 1 configured as claimed.

Regarding claim 5, Mariol further teaches a front surface (17) configured as claimed.

As best understood, the examiner considers the structural recitations of claims 7 and 8 to be inherent in the device of Mariol.

Regarding claim 12, Mariol teaches a first unit and a second unit in figure 1 configured as claimed.

Regarding claim 13, as best understood, Mariol teaches first and second play areas and a continuous play area in figure 1 configured as claimed.

Regarding claim 14, as best understood, see claim 1 as set forth above.

Regarding claim 15, the examiner considers the functional recitation of the claim to be inherent in the device of Mariol.

Claims 1, 6-9, 12, 13 and 17-20 are rejected under 35 U.S.C. 102(b) as being anticipated by Katzma.

Regarding claim 1, Katzmal teaches in figures 1-6 a toy kitchen comprising a main unit (86) and an island (56) configured as claimed.

Regarding claims 6, Katzmal further teaches a right and left side in figure 1 configured as claimed.

As best understood, the examiner considers the structural recitations of claims 7 and 8 to be inherent in the device of Katzmal.

Regarding claim 9, as best understood, Katzmal teaches a window (70) and a window treatment (72) configured as claimed.

Regarding claim 12, Katzmal teaches a first unit and a second unit in figure 1 configured as claimed.

Regarding claim 13, as best understood, Katzmal teaches first and second play areas and a continuous play area in figure 1 configured as claimed.

Regarding claim 17, as best understood, see claim 1 as set forth above.

Regarding claims18 and 19, Katzmal teaches in figures 1-7 a toy kitchen comprising a main unit (86) and an island (fig.1) configured as claimed.

Regarding claim 20, the examiner takes the position that 70 and 72 of figure 1 of Katzmal teaches a set of shelves configured as claimed.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

> (a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if th differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

Claim 4 is rejected under 35 U.S.C. 103(a) as being unpatentable over Mariol in view of Orenstein.

Mariol teaches in figures 1-7 the invention substantially as claimed. However, Mariol fails to teach a light producing device. Orenstein teaches that lamp bulb is used to provide illumination to supply heat to burners in lines 14-16 of column 3. it would have been obvious to one having ordinary skill in the art at the time the invention was made to incorporate a light producing device as taught by Orenstein to the toy kitchen of Mariol for the purpose of providing illumination to the toy when in use.

Conclusion

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Hartman teaches a toy gas range. Klitsner teaches a flipover toy. Neuhaus teaches a restaurant building.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Bena Miller whose telephone number is 703.305.0643. The examiner can normally be reached on Monday-Friday.

bbm
December 21, 2001

JACOB K. ACKUN, JR.
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